

**CITY OF BAYPORT  
CITY COUNCIL MEETING MINUTES  
COUNCIL CHAMBERS  
October 7, 2019  
6:00 P.M.**

**CALL TO ORDER**

Pursuant to due call and notice, Mayor St. Ores called the regular City Council meeting of October 7, 2019, to order at 6:00 p.m., and asked Councilmembers, staff, and the audience to join in pledging allegiance to the American Flag.

**ROLL CALL**

Members Present: Mayor Susan St. Ores, Councilmembers John Dahl, Connie Carlson, and Michele Hanson

Members Absent: Councilmember John Buckley

Staff Present: City Administrator Adam Bell, Assistant Administrator/Planner Sara Taylor, Police Chief Laura Eastman, Fire Chief Allen Eisinger, Public Works Director Matt Kline, City Engineer John Parotti, and City Attorney Andy Pratt

**APPROVAL OF AGENDA**

It was moved by Councilmember Hansen and seconded by Councilmember Carlson to approve the October 7, 2019 City Council agenda as presented. Motion carried 4-0.

**PROCLAMATIONS, COMMENDATIONS, PETITIONS, ANNOUNCEMENTS**

1. The September recycling award recipients are Erin and Ben Crowder at 244 6<sup>th</sup> Street North, who will be awarded for their recycling efforts with funding made possible with a grant from Washington County.
2. Mayor St. Ores recognized Chuck Oswald for 20 years of service with the Bayport Fire Department. Fire Chief Eisinger presented Chuck with his fire helmet and badge.

**OPEN FORUM**

There were no comments made at open forum.

**CONSENT AGENDA**

Mayor St. Ores read items 1-7 on the consent agenda.

Councilmember Carlson introduced the following resolution and moved its adoption:

**Resolution 19-29**

**RESOLUTION APPROVING CONSENT AGENDA ITEMS 1-7 FROM THE  
OCTOBER 7, 2019 CITY COUNCIL AGENDA**

1. September 9, 2019 City Council workshop meeting minutes
2. September 9, 2019 City Council regular meeting minutes
3. September payables and receipts (check numbers 011504-011614)
4. September building, plumbing and mechanical permits report
5. Hiring of Travis Lenander as a part-time police officer and PERA declaration (*Resolution 19-29A*)
6. Renewal of boat trailer parking agreement with Andersen Corporation
7. Grant agreement with the Department of Natural Resources for volunteer fire assistance for the Fire Department

The motion for adopting the foregoing resolution was duly seconded by Councilmember Dahl and upon roll call being taken thereon, the following vote via voice:

Susan St. Ores - aye  
John Dahl - aye

Connie Carlson- aye  
Michele Hanson -aye

## **SWEARING IN OF POLICE OFFICER TRAVIS LENANDER**

Mayor St. Ores administered the Oath of Office to the Police Department's new officer Travis Lenander. Police Chief Eastman mentioned Travis has been a Reserve Officer with the Washington County Sheriff's Office and a Community Service Officer with the City of Savage. He is an emergency room technician with Regions Hospital and brings crisis intervention experience to the Police Department.

## **PUBLIC HEARINGS**

There were no public hearings.

## **UNFINISHED BUSINESS**

There was no unfinished business.

## **NEW BUSINESS**

1. Consider an application submitted by Andersen Corporation for a variance from impervious coverage requirements for a parking lot and stormwater improvement project at 100 4<sup>th</sup> Ave. N.: Mayor St. Ores called on Planner Taylor to present the details of an application submitted by Andersen Corporation for a variance from impervious coverage requirements. Planner Taylor explained that the Andersen Corporation campus is zoned industrial and guided for industrial use by the Comprehensive Plan. The proposed project involves resurfacing two existing gravel parking areas with a new bituminous surface and installing two rain gardens to infiltrate stormwater runoff. Because Andersen Corporation was developed prior to the adoption of the city's zoning code, much of the plant does not meet current standards, especially in regard to lot coverage requirements. For this reason, Andersen is requesting a variance for impervious coverage to facilitate the project. The north parking area, consisting of 1.4 acres, will be converted from gravel to bituminous surface and the remainder will be converted to vegetated green space to decrease impervious surface and reduce stormwater runoff, resulting in a net of 1.3 acres impervious. The south parking area, consisting of 1.7 acres, will also be converted from gravel to bituminous surface, with an additional 150 square feet to be added to expand a drive lane and improve vehicular safety. Two rain gardens will be constructed near the south parking area, adjacent to the St. Croix River, resulting in a total reduction of .2 acres of impervious surface for the overall project. State statute dictates that a variance shall only be permitted when in harmony with the general purposes and intent of the ordinance, consistent with the comprehensive plan, and practical difficulties prevent compliance with the zoning ordinance. In this specific case, staff feels the intent is to use the property in a reasonable manner not permitted by the zoning ordinance; there are circumstances unique to the property; and the variance will not alter the character of the neighborhood. As proposed, the parking lot improvements will not substantially alter the appearance of the site and actually result in increased compliance with current city code, which requires off-street parking areas to be surfaced with asphalt or concrete. The rain gardens will also help to enhance treatment of stormwater runoff, which is a positive improvement over the existing conditions. The Planning Commission held a public hearing on this application on September 23. Following discussion, they voted to approve the variance, subject to the findings of fact and conditions of approval recommended by staff.

City Engineer Parotti clarified the existing gravel surface is already considered an impervious surface but during storm water runoff events, the gravel surface has more detrimental effects than a bituminous surface, as fine sediment infiltrates surrounding drainage areas. For this reason, a bituminous surface would be considered an improvement to the parking facility.

Councilmember Hanson verified that Andersen Corporation would still not be in compliance with the existing impervious coverage ordinance despite these improvements. Andersen Corporation representative Todd Nickleski indicated that both existing and proposed paved surfaces are regularly maintained and swept to limit sediment and salt runoff. Councilmember Dahl asked if pervious or porous asphalt was considered for this project. City Engineer Parotti cited examples of porous surfaces but suggested these materials might be cost prohibitive for a project of this size. In addition, porous pavements do not offset the city ordinance for impervious surface. Despite the increased cost to the applicant, there would be no improvement towards compliance for impervious coverage from a regulatory standpoint. Mayor St. Ores asked if additional landscaping could be incorporated onto the borders of this proposal to further screen the parking area from

residential streets. Todd Nickleski indicated that rain gardens would be installed along the east edge of the south parking lot area, to minimize runoff directly into the river. Administrator Bell noted there may be an opportunity to incorporate further storm water improvements in conjunction with the adjacent Land and Water legacy project, which includes the potential for relocating the existing public boat launch and boat trailer parking lot.

As included in the engineering memo for this proposal, City Engineer Parotti requested that Andersen grade to a slight depression in the north lot that borders Point Road, allowing runoff to infiltrate into an existing open ditch. Councilmember Carlson suggested the inclusion of the grade depression would be a good compromise between the proposed impervious bituminous surface and cost prohibitive pervious asphalt. Councilmembers also asked for an increased vegetative buffer to catch stormwater runoff on the eastern edge of the south lot near the boat trailer parking area. It was determined that the design for a graded depression in the north lot and a vegetated buffer adjacent to the south lot could be reviewed and approved administratively to expedite the project and allow for completion prior to the winter season.

Councilmember Hanson introduced the following resolution and moved its adoption:

**Resolution 19-30**

**A RESOLUTION APPROVING A VARIANCE FROM IMPERVIOUS COVERAGE REQUIREMENTS FOR A PARKING LOT AND STORMWATER IMPROVEMENT PROJECT FOR THE AREAS DEFINED ON THE ATTACHED LEGAL DESCRIPTIONS, LOCATED AT ANDERSEN CORPORATION, 100 4<sup>TH</sup> AVENUE NORTH, BAYPORT, WASHINGTON COUNTY, MINNESOTA**

The motion for adopting the foregoing resolution was duly seconded by Councilmember Carlson and upon roll call being taken, the following voted via voice:

Susan St. Ores - aye  
Michele Hanson –aye

Connie Carlson- aye  
John Dahl - abstained

2. Discuss residential solid waste, recycling, and yard waste collection proposals: Administrator Bell explained that Republic Services has provided organized residential waste hauling for Bayport since 2005. The current contract expires in December 2020. Due to dissatisfaction with performance, the city is considering exercising its contractual right to terminate the current contract with Republic Services. In July of this year, the city released a Request for Proposals (RFP) for residential solid waste, recycling, and yard waste collection. The city received three proposals in response to the RFP, including Republic Services, Waste Management, and Highland Sanitation. Administrator Bell noted that a comparison summary of the proposals was provided to the City Council prior to the meeting and includes a January 2020 start date. Highland Sanitation’s proposal was slightly lower than the current contract. Recycling and yard waste service was higher with all three proposals. One notable difference between proposals was Highland Sanitation offered weekly recycling. Curbside organic recycling is not available with any of proposed haulers, although Highland Sanitation and Waste Management could offer a common collection receptacle for organic recycling within the city. All three proposals also offer a city-wide household collection event. Administrator Bell requested the City Council provide feedback on the proposals and whether to pursue a new potential contract for 2020. He did note that early termination of the current contract with Republic Services would likely be contested and may result in legal costs. Discussion followed on some disappointment with Republic Services customer service, citing examples of long phone call hold times and slow resolution of issues, but the majority of the City Council expressed reluctance to engage in legal battles for early contract termination. Following discussion, the consensus was to retain the current contract with Republic Services and revisit the RFP process in 2020.

3. Discuss a process for consideration of a short term rental (STR) ordinance amendment: Administrator Bell summarized the STR process thus far, which began in 2017. In January 2018, the City Council voted 4-1 to prohibit STRs of less than 30 days and continue researching the issue. Since that time, the Planning Commission has held a public hearing on the regulation of STR and the City Council also received public comment on the topic at the April 1, 2019 regular City Council meeting. Due to differing opinion of how STR should be regulated, the City Council voted to table the item. Staff has since been asked by individual

councilmembers to revisit the topic and based on recent comments, staff believes that the city is closer to arriving at ordinance language that satisfies policy concerns. Administrator Bell facilitated discussion by asking three specific questions of the City Council:

1. Should the STR issue be put before the Planning Commission again? Administrator Bell noted that City Attorney Pratt advised it is not legally required as the public hearing requirement for zoning amendments was satisfied at the Planning Commission meeting in March of 2019.
2. Is any additional notice/engagement desired? Administrator Bell noted the city's current practice is to meet the legal requirement for ordinance amendments. Staff has not received much public feedback on the STR issue to date.
3. What is the desired timeline to consider a revised STR proposal? Administrator Bell stated that if the topic is to be revisited by Planning Commission, a public hearing could be held at the November 18 meeting, followed by City Council consideration on December 2.

Mayor St. Ores stated she did not feel the STR issue needs to return to the Planning Commission, but would like more opportunity for public engagement. She is concerned that property owners adjacent to potential STR properties may not be aware of the impending zoning ordinance change. Councilmembers Dahl and Carlson expressed interest in returning the topic to the Planning Commission to provide another opportunity for public engagement. Both are concerned that affected city residents have been waiting overly long for a formal STR policy and targeted January 2020 as the ordinance implementation target. Councilmember Hanson stated she did not feel additional Planning Commission input was necessary. The STR issue and zoning ordinance amendment has been sufficiently vetted for public opinion. If the City Council is desiring more public input, she suggested allowing for public comment at an upcoming City Council meeting. Administrator Bell advised the City Council that additional public engagement would be held at a Planning Commission meeting with a public hearing.

It was moved by Councilmember Carlson and seconded by Councilmember Hanson to un-table the discussion of a proposed short term rental zoning ordinance amendment. Motion carried 4-0.

It was moved by Councilmember Carlson and seconded by Councilmember Dahl to return a proposed short term rental zoning ordinance amendment to the Planning Commission for a public hearing. Motion carried 3-1, with Councilmember Hanson voting nay.

### **CITY COUNCIL LIAISON REPORTS**

Councilmember Hanson reported that the Cable Commission met on September 16 to discuss an audit review by Redpath Accounting Service, introduction of a new user friendly website, and Federal Cable Commission (FCC) changes regarding free cable services for the Fire Department, Library, and City Hall. She attended a Future of Stillwater breakfast hosted by the Stillwater Chamber of Commerce regarding improvements to make the city bike and pedestrian friendly.

Councilmember Dahl shared that E.Coli testing results from Perro Creek were inconclusive. The Middle St. Croix Watershed Management Organization will resume testing in the spring.

### **STAFF/CITY ADMINISTRATOR REPORTS**

Fire Chief Eisinger reported the September month-to-date call volume is 81, compared to 99 in 2018. The 2019 year-to-date call volume is 934, compared to 974 in 2018. Drills included advanced auto extrication with the new rescue truck. The department participated in the 911 Tribute on I-94, Derby Days, Stillwater Area Public Schools homecoming, and Officer Parise's Memorial. Fire Prevention Week is October 6 – 12 and the department will be celebrating with an open house on October 12, 9 a.m. to 12 p.m. The department is also celebrating the retirement of Chuck Oswald after 20 years of service.

Police Chief Eastman reported that the department recently participated in the 100 year anniversary of Andersen Elementary School and Derby Days. Sergeant Jackson and the Chief participated in active shooter emergency response training at St. Croix Preparatory School. The Chief formally recognized the various businesses and residents that donated to Safety Camp. Finally, Chief Eastman announced that officers will be patrolling the streets and distributing candy and glow necklaces to children on Halloween versus the traditional department open house.

Public Works Director Kline indicated grass mowing will be ending and the transition to leaf collection in the parks and street sweeping has begun. He reviewed preparation for Derby Days and announced that the 2<sup>nd</sup> Ave. N. Drainage Improvement Project is about half complete. Recently, 113 hydrants were cleaned, primed, and painted. Staff is working on the Wellhead Protection Plan and the first review deadline is December. The Department of Agriculture has verified the presence of Emerald Ash Borer (EAB) within the city. This fall, they will help the city complete a visual survey to determine the extent of the infestation and assist in determining the best plan of action moving forward. SEH recently discontinued their GIS program called SmartConnect and switched to a new platform software called ESRI with increased capabilities and a lower yearly cost for service. The new playground equipment for the Lakeside Park has been ordered and Public Works will begin demolition of the existing structure in the next few weeks. Installation of the new equipment is anticipated by the end of October.

Assistant City Administrator/Planner Taylor reported that term expiration for Planning Commissioners Coleen Siegfried and Aaron Ochs is December 31, 2019. Both have expressed interest in reappointment, which will be brought forward to City Council in December. The title search for all the properties involved with the Land and Water Legacy Project has been completed and closing on the land acquisition is scheduled for next week. Following closing, there will be asbestos testing of the existing houses and accessory buildings and mitigation, if necessary. Staff is anticipating that asbestos mitigation and demolition will be completed by year end. Planner Taylor prepared and submitted application materials and a program work plan for the Water Efficiency Grant program offered by the Metropolitan Council. Submittal materials have been accepted and the city will be notified by December 2 if selected for grant funding. In cooperation with Public Works Director Kline, Planner Taylor prepared and submitted two Emerald Ash Borer grant applications to the Department of Natural Resources for a potential of \$130,000 to aid in the city's preparation and response efforts. Planner Taylor attended training on administering the upcoming Presidential Primary Election on March 3, 2020.

Administrator Bell and staff met with MnDOT to discuss the 2020 infrastructure project and the proposed center median between 2<sup>nd</sup> and 3<sup>rd</sup> Avenues. The median will be designed with a 100 foot long planting area in the center and will be the responsibility of the city to install and maintain. Staff is also working with MnDOT on the project construction agreement and scheduling public informational events. Construction is currently planned to begin in May of 2020 through October. Staff has met with two security firms to obtain quotes for new electronic locks at City Hall, old Fire Hall, and Public Works and is working with the city's safety consultant to pursue grant funding for these upgrades. Administrator Bell indicated the recertification of the city's quiet zone railway designation is still pending with the Federal Railroad Administration.

#### **CITY COUNCIL ITEMS AND ANNOUNCEMENTS**

Mayor St. Ores acknowledged the BCAL and the Afton-Bayport-Lakeland Lions Club for all their efforts at Derby Days.

#### **ADJOURNMENT**

It was moved by Councilmember Dahl and seconded by Councilmember Carlson to adjourn the meeting at 9:05 p.m. Motion carried 4-0.

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City Administrator/Clerk